



# Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

## 1997 CHAPTER 9

### PART I

#### LISTED BUILDINGS

#### CHAPTER IV

#### ENFORCEMENT

#### **[<sup>F1</sup>39A Fixed penalty notice where listed building enforcement notice not complied with**

- (1) Where a planning authority have reason to believe that, by virtue of subsection (1) of section 39, a person is in breach of a listed building enforcement notice they may, if the conditions in subsection (9) are satisfied, serve on the person a fixed penalty notice as respects that breach.
- (2) The fixed penalty notice is to specify (either or both)—
  - (a) the works specified, under subsection (1A) of section 34, in the listed building enforcement notice which have not ceased,
  - (b) the step specified, under that subsection, in the listed building enforcement notice which has not been taken.
- (3) No more than one fixed penalty notice may be served on a person as respects a breach by the person of a listed building enforcement notice.
- (4) For the purposes of this section, a “fixed penalty notice” is a notice offering the person the opportunity of discharging any liability to conviction for an offence under section 39 as respects the breach of the listed building enforcement notice.
- (5) The person discharges any such liability by paying to the planning authority, within the relevant period, a penalty of a prescribed amount specified in the fixed penalty notice.

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**Changes to legislation:** Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Section 39A is up to date with all changes known to be in force on or before 20 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- (6) The relevant period mentioned in subsection (5) is the period of 30 days immediately following the day on which the fixed penalty notice is served.
- (7) But if payment is made within the first 15 days of the period mentioned in subsection (6) the amount payable is reduced by 25%.
- (8) The fixed penalty notice is to identify the period mentioned in subsection (6) and is also to state that if payment is made within the first 15 days of that period the amount payable is reduced by 25%.
- (9) The conditions are that the fixed penalty notice—
- (a) is served within the period of 6 months which immediately follows the period for compliance with the listed building enforcement notice,
  - (b) is not served after the person has been charged with an offence under section 39 as respects the breach of the listed building enforcement notice.
- (10) During the period mentioned in subsection (6) it is not competent to commence proceedings against the person for an offence under section 39 as respects that breach.
- (11) If the amount (or as the case may be the reduced amount) is timeously paid it is not competent to commence proceedings against the person for an offence under section 39 as respects that breach.
- (12) A penalty received by a planning authority by virtue of subsection (5) is to accrue to that authority.
- (13) In prescribing an amount for the purposes of subsection (5), the Scottish Ministers may make different provision for different cases or different classes of case, including provision for different amounts by reference to previous breaches of listed building enforcement notices relating to the same steps or works.]

#### Textual Amendments

- F1** S. 39A inserted (30.6.2011 for specified purposes, 1.12.2011 in so far as not already in force) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 24, 33(2)**; [S.S.I. 2011/174](#), **art. 2**, **sch.**; [S.S.I. 2011/372](#), **art. 2**, **sch.**

#### Modifications etc. (not altering text)

- C1** Ss. 28-41I applied (with modifications) (1.10.2015) by [The Planning \(Listed Building Consent and Conservation Area Consent Procedure\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/243\)](#), **regs. 1, 15**, **sch. 3** (with **reg. 2**)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 82(1)(aa)-(ad) inserted by [2006 asp 17 s. 55\(5\)](#)